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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,749	12/30/2003	Dan M. Mihai	EIS-5909E (112713-1160)	2669
29290 7590 08/20/2008 BAXTER HEALTHCARE CORPORATION 1 BAXTER PARKWAY DF2-2E DEERFIELD, IL 60015				
EXAMINER				
SOREY, ROBERT A				
ART UNIT		PAPER NUMBER		
3626				
MAIL DATE		DELIVERY MODE		
08/20/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/748,749

Applicant(s)

MIHAI ET AL.

Examiner

ROBERT SOREY

Art Unit

3626

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 04/18/2005, 08/06/2004
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. Acknowledgement is hereby made of receipt of Information Disclosure Statement(s) filed by applicant on 06 August 2004.

Due to the excessively lengthy Information Disclosure Statement submitted by applicant, the examiner has given only a cursory review of the listed references. In accordance with MPEP 609.04(a), applicant is encouraged to provide a concise explanation of why the information is being submitted and how it is understood to be relevant. Concise explanations (especially those which point out the relevant pages and lines) are helpful to the Office, particularly where documents are lengthy and complex and applicant is aware of a section that is highly relevant to patentability, or where a large number of documents are submitted and applicant is aware that one or more are highly relevant to patentability. Applicant is also required to comply with this statement for any non-English language documents. See 37 CFR § 1.56 Duty to Disclose Information Material to Patentability.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-30** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2002/0038392 to De La Huerga in view of U.S. Patent 6,980,958 to Surwit et al.

4. As per claim 1, De La Huerga teaches a system comprising:

--a *terminal device* (Fig. 26, ele. 260, is met by the controller or pump)(see: De La Huerga, paragraphs 138, 187, 192-246, 270-281, 288-307, 315, and 320-329) *attached to a network* (Fig. 26, ele. 272)(see: De La Huerga, paragraphs 194, 195, 224, 237, 243, 289, 291, 300, 320, and 323) *and comprising a visual display* (Fig. 26, ele. 264)(see: De La Huerga, paragraphs 192, 193, 205-208, 213, 215, 2118, 221, 224, 233, 241, 264, 291, 294, 300, 301, 303, and 316);

--a *medical device attached to the network* (Fig. 26, ele. 100a, is met by the pump)(see: De La Huerga, paragraphs 201, 202, 207, 219, 220, 223, 243, 246, 268, 277, 285, 293, and 295);

--a *communication initiated by the medical device and transmitted over the network, the communication comprising status or programming information for the medical device* (Fig. 38; Fig. 42)(see: De La Huerga, paragraphs 31, 201, 202, 212, 214, 218-224, 285, 296, 322, and 325);

--a *server attached to the network* (Fig. 43, ele. 704; Fig. 31, ele. 630)(see: De La Huerga, paragraphs 151, 154, 155, 224, 243, 259, 260, 268, 269, 271, 319, and 320);

--a *message generated by the server and transmitted over the network upon request by the terminal device or upon occurrence of an event, said message*

comprising at least a portion of the status or the programming information contained within the communication initiated by the medical device;

De La Huerga teaches a terminal device attached to a server that generates messages confirming the status of the medical device also attached to the terminal device (Fig. 42)(see: De La Huerga, paragraphs 31, 32, 154, 155, 215, 221, 224, 243, 259, 260, 271, 319, and 320), but does not teach that the medical device routs status messages to the terminal devices through the server; however, Surwit et al. teaches remote patient monitors and physician access terminals connected to a server through a network wherein patient status information is sent from the patient monitor to the server and from the server to the physician's terminal upon request (Fig. 1)(see: Surwit et al., column 7, line 55 through column 8, line 20; column 8, line 60 through column 9, line 42; column 9, lines 60-61; column 10, line 4 through column 13, line 10; and column 13, line 62 through column 14, line 9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the messaging features as taught by De La Huerga and the configuration as taught by Surwit et al. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

--wherein at least a portion of said message is provided in a humanly readable format on the visual display (Fig. 26, ele. 264; Fig. 31, ele. 614)(see: De La Huerga, paragraph 215, 218, 219, 221, 260).

5. As per claim 2, De La Huerga teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

--a request message generated by a software application executed by the terminal device (see: De La Huerga, paragraph 163, 201, 202, 204, 211), a response message generated in response to the request message and comprising of information contained within a data packet generated by the medical device (Fig. 38; Fig. 42)(see: De La Huerga, paragraphs 31, 32, 201, 202, 204-206, 212, 214, 218-224, 296, 322, and 325), and wherein said information is modified in response to a change in the information contained within another data packet generated by the medical device (Fig. 28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga, paragraphs 31, 32, 36, 38, 155, 208, 211, 214, 215, 221, 223, 224, 243, 259, 260, 271, 285, 319, and 320).

6. As per claim 3, De La Huerga teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--the program is written in a high-level software language (see: Surwit et al., column 7, lines 46-54).

7. As per claim 4, De La Huerga teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--the program is written in an object-oriented language (see: Surwit et al., column 7, lines 46-54).

8. As per claim 5, De La Huerga teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--the software application is a Web browser (Fig. 1; and Fig. 8-Fig. 14)(see: Surwit et al., column 7, line 55 through column 8, line 6, is met by the "internet browsers").

9. As per claim 6, De La Huerga teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--the software application resides on the server and its output is displayed in a browser (see: Surwit et al., column 7, line 55 through column 8, line 19; and column 11, lines 6-57).

10. As per claim 7, De La Huerga teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

--the network is located within a health care facility (see: De La Huerga, paragraphs 4, 8, 9, 43, 128, 130, 217, and 333).

11. As per claim 8, De La Huerga teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

--the medical device is an infusion pump (Fig. 26, ele. 100a)(see: De La Huerga, paragraphs 201, 202, 207, 219, 220, 223, 243, 246, 268, 277, 285, 293, and 295).

12. As per claim 9, De La Huerga teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--said information comprising an alarm, alert, or other notification (Fig. 28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga, paragraphs 31, 32, 36, 38, 155, 208, 211, 214, 215, 221, 223, 224, 243, 259, 260, 271, 285, 319, and 320).

13. As per claim 10, De La Huerga teaches the invention substantially as claimed, see discussion of claim 9, and further teaches:

--said change in the information comprising cancellation of an alarm, alert, or other notification (Fig. 28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga, paragraphs 31, 32, 36, 38, 155, 208, 211, 214, 215, 221, 223, 224, 243, 259, 260, 271, 285, 319, 320, and 323, is met, for example, by "audible alert requesting the physician to confirm the change" and 325 is met by "[t]he physician can reset the alert by pressing a button").

14. As per claim 11, De La Huerga teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--said information comprising pump programming (see: De La Huerga, paragraphs, 40, 117, 118, 204, 211, 212, 223, 284, 286, 313, and 329).

15. As per claim 12, De La Huerga teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--said medical device is an infusion pump (Fig. 26, ele. 100a)(see: De La Huerga, paragraphs 201, 202, 207, 219, 220, 223, 243, 246, 268, 277, 285, 293, and 295) and said change in the information comprising a change in the pump programming (see: De La Huerga, paragraphs, 40, 117, 118, 204, 211, 212, 223, 284, 286, 313, and 329).

16. As per claim 13, De La Huerga teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

--the terminal device is associated with a clinician responsible for care of a patient and the medical device is attached to the patient (Fig. 26)(see: De La Hueraga, paragraphs 31, 99-106, and 322).

17. As per claim 14, De La Hueraga teaches a system comprising:

--a request message generated substantially within a time interval by a program within a software application executed by a terminal device (see: De La Hueraga, paragraph 163, 201, 202, 204, 211);

--a response message generated in response to the request message and comprising of information contained within a data packet (Fig. 38; Fig. 42)(see: De La Hueraga, paragraphs 31, 32, 201, 202, 204-206, 212, 214, 218-224, 296, 322, and 325); and,

De La Hueraga does not specifically teach that response message is *generated by a medical device*; however, Surwit et al. teaches remote patient monitors and physician access terminals connected through a network, wherein patient status information is sent from the patient monitor to the physician's terminal upon request (Fig. 1)(see: Surwit et al., column 7, line 55 through column 8, line 20; column 8, line 60 through column 9, line 42; column 9, lines 60-61; column 10, line 4 through column 13, line 10; and column 13, line 62 through column 14, line 9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the messaging features as taught by De La Hueraga and the configuration as taught by Surwit et al. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did

separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

--wherein said information is modified in response to a change in the information contained within another data packet generated by the medical device (Fig. 28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga, paragraphs 31, 32, 36, 38, 155, 208, 211, 214, 215, 221, 223, 224, 243, 259, 260, 271, 285, 319, and 320).

18. As per claim 15, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the program is written in a high-level software language (see: Surwit et al., column 7, lines 46-54).

19. As per claim 16, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the program is written in an object-oriented language (see: Surwit et al., column 7, lines 46-54).

20. As per claim 17, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the program is written in JAVA (see: Surwit et al., column 7, lines 46-54).

21. As per claim 18, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the program is written in C+ (see: Surwit et al., column 7, lines 46-54).

22. As per claim 19, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the program is written in Visual Basic Script (see: Surwit et al., column 7, lines 46-54).

23. As per claim 20, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the software application is a Web browser (Fig. 1; and Fig. 8-Fig. 14)(see: Surwit et al., column 7, line 55 through column 8, line 6, is met by the "internet browsers").

24. As per claim 21, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the software application resides on a server and its output is displayed in a browser (see: Surwit et al., column 7, line 55 through column 8, line 19; and column 11, lines 6-57).

25. As per claim 22, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the terminal device is attached to a network within a health care facility (see: De La Huerga, paragraphs 4, 8, 9, 43, 128, 130, 217, and 333).

26. As per claim 23, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--*wherein the medical device is an infusion pump* (Fig. 26, ele. 100a)(see: De La Huerga, paragraphs 201, 202, 207, 219, 220, 223, 243, 246, 268, 277, 285, 293, and 295).

27. As per claim 24, De La Huerga teaches the invention substantially as claimed, see discussion of claim 23, and further teaches:

--*said information comprising an alarm or an alert* (Fig. 28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga, paragraphs 31, 32, 36, 38, 155, 208, 211, 214, 215, 221, 223, 224, 243, 259, 260, 271, 285, 319, and 320).

28. As per claim 25, De La Huerga teaches the invention substantially as claimed, see discussion of claim 24, and further teaches:

--*said change in the information comprising cancellation of an alarm or an alert* (Fig. 28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga, paragraphs 31, 32, 36, 38, 155, 208, 211, 214, 215, 221, 223, 224, 243, 259, 260, 271, 285, 319, 320, and 323, is met, for example, by "audible alert requesting the physician to confirm the change" and 325 is met by "[t]he physician can reset the alert by pressing a button").

29. As per claim 26, De La Huerga teaches the invention substantially as claimed, see discussion of claim 23, and further teaches:

--*said information comprising pump programming* (see: De La Huerga, paragraphs, 40, 117, 118, 204, 211, 212, 223, 284, 286, 313, and 329).

30. As per claim 27, De La Huerga teaches the invention substantially as claimed, see discussion of claim 26, and further teaches:

--said change in the information comprising a change in the pump programming (see: De La Huerga, paragraphs, 40, 117, 118, 204, 211, 212, 223, 284, 286, 313, and 329).

31. As per claim 28, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--the terminal device is associated with a clinician responsible for care of a patient and the medical device is attached to the patient (Fig. 26)(see: De La Huerga, paragraphs 31, 99-106, and 322).

32. As per claim 29, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--a first central computer is operably connected between the terminal device and the medical device (Fig. 26, ele 100a, 100b, 260 and 830)(see: De La Huerga, paragraphs 138, 187, 192-246, 270-281, 288-307, 315, and 320-329).

33. As per claim 30, De La Huerga teaches the invention substantially as claimed, see discussion of claim 29, and further teaches:

--the first central computer generates the response message (Fig. 38; Fig. 42)(see: De La Huerga, paragraphs 31, 32, 201, 202, 204-206, 212, 214, 218-224, 296, 322, and 325).

Conclusion

34. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT SOREY whose telephone number is

(571)270-3606. The examiner can normally be reached on Monday through Friday, 8:30AM to 5:00PM (EST).

35. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on (571)272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

36. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert Sorey/
Examiner, Art Unit 3626
14 August 2008

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626